

SERVICE DATE - JULY 27, 2017

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35522

CSX TRANSPORTATION, INC.—ACQUISITION OF OPERATING EASEMENT—GRAND  
TRUNK WESTERN RAILROAD COMPANY

Digest:<sup>1</sup> This decision makes an unopposed modification to a CSX Transportation, Inc. (CSXT), voluntary mitigation measure included in the Board's 2013 approval of CSXT's acquisition of an operating easement over a rail line in the Chicago area (Elsdon Line). The decision also extends for six months (with some modification) CSXT's monthly Elsdon Line status reports.

Decided: July 26, 2017

In 2013, the Board approved an application by CSX Transportation, Inc. (CSXT), to acquire an operating easement over a rail line of the Grand Trunk Western Railway Company located in the Chicago area (Elsdon Line). See CSX Transp., Inc.—Acquis. of Operating Easement—Grand Trunk W. R.R. (Elsdon Decision), FD 35522 et al. (STB served Feb. 8, 2013). The Board's approval was based, in part, on CSXT's commitment to representations it made during the application process and was conditioned on CSXT's compliance with mitigation measures it voluntarily proposed during the environmental assessment and others imposed by the Board. (Elsdon Decision, slip op. at 11-16.) Specifically, CSXT represented, among other things, that due to its control of dispatching "all trains operating over the Elsdon Line will be moving at about 40 miles per hour [and] this operation will minimize the amount of time at-grade crossings are blocked between Elsdon and Munster to about three (3) minutes per CSXT train." (CSXT Application 18.) CSXT also proposed to cut trains blocking public crossings for more than 10 minutes in its Voluntary Mitigation Measure No. 6 (VM 6):

CSXT shall operate under U.S. Operating Rule No. 526 (Public Crossings), which provides that a public crossing must not be blocked longer than 10 minutes unless it cannot be avoided and that, if possible, rail cars, engines, and rail equipment may not stand closer than 200 feet from a highway/rail at-grade crossing when there is an adjacent track. If the blockage is likely to exceed

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<sup>1</sup> The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

this time frame, then the train shall then be promptly cut to clear the blocked crossing or crossings.

(Draft Env'tl. Assessment, CSX Transp., Inc.—Acquis. of Operating Easement—Grand Trunk W. R.R., FD 35522, Page 4-3 (STB served Oct. 5, 2012).)

February 2016 Petition to Reopen. On February 12, 2016, the City of Chicago and the Village of Evergreen Park (the Chicago Communities) jointly petitioned the Board to reopen the acquisition proceeding and impose sanctions and operational limitations on CSXT, alleging a high number of street blockages stemming from CSXT's operations and at-grade crossing equipment failures. The Chicago Communities provided evidence that street blockages exceeding 10 minutes on the Elsdon Line had resulted from stopped trains, slow moving or idling trains, and malfunctioning gates. (See Pet. to Reopen 12-15.) CSXT responded that it had made efforts to address those problems and was continuing to address them. (See CSXT Reply 2-7, Mar. 10, 2016.)

On June 22, 2016, the Board reopened the proceeding in response to the Chicago Communities' petition. The Board expressed concern in its June decision regarding the extent of idling trains, gate malfunctions, blocked crossings, and trains not being cut when idled on the Line. See CSX Transp., Inc.—Acquis. of Operating Easement—Grand Trunk W. R.R., FD 35522, slip op. at 7-8 (STB served June 22, 2016). The Board reminded CSXT of both its representations that it would not operate trains over the Elsdon Line unless the route was clear and the VM 6 commitment to cut trains. (See id.) The Board also directed CSXT to comply with its "route clear" operations representation (or show cause why it could not) and provide monthly reporting on Elsdon Line fluidity for one year. (Id. at 9.) In a subsequent decision, the Board (among other things) directed CSXT to document in each monthly report any community outreach efforts with respect to the Elsdon Line during the month. See CSX Transp., Inc.—Acquis. of Operating Easement—Grand Trunk W. R.R., FD 35522, slip op. at 2 (STB served Oct. 7, 2016).

April 2017 Board Decision. While the monthly reports filed since July 2016 suggest that CSXT has reduced gate malfunctions, other metrics show that CSXT has not been able to achieve the operational fluidity it promised in its application to acquire its operating easement over the Elsdon Line. The reports suggest that CSXT's improvement efforts have reached their limit and that some of CSXT's operational representations and mitigation commitments have proven infeasible. Accordingly, on April 26, 2017, the Board directed CSXT to explain how it intended to further improve operational fluidity on the Elsdon Line and fulfill the representations and commitments CSXT made during the acquisition proceeding. CSX Transp., Inc.—Acquis. of Operating Easement—Grand Trunk W. R.R., FD 35522, slip op. at 3 (STB served Apr. 27, 2017). The Board invited CSXT to suggest mitigation alternatives that could improve operations on the Line and address the concerns of the affected communities and the operational realities of railroading in this part of Chicago. Finally, the Board invited interested persons to respond to CSXT's comments.

May 2017 CSXT Response. On May 30, 2017, CSXT filed its response to the Board's April 2017 decision. CSXT asserts that the monthly data shows that it has substantially

decreased crossing delays and increased operational fluidity. (See CSXT Reply 2-3, May 30, 2017.) CSXT claims, in particular, that the data shows it has made significant improvement on the eight-mile segment of the Elsdon Line in Evergreen Park and the Nineteenth Ward, which was the area of greatest concern to the Chicago Communities. (*Id.* at 22-23.) CSXT attributes these improvements to actions it has taken to reduce false gate activations, decrease the amount of time its trains are occupying grade crossings, and refine its protocols with other carriers to reduce delays arising from inter-carrier logistical issues. (See *id.* at 4-6.)

However, CSXT concludes that VM 6 is not feasible. CSXT states that, in its experience, a cut at each crossing takes approximately 30 minutes, meaning that it would take a minimum of 60 minutes (two 30-minute periods to cut and reconstruct the train) to clear just one crossing (see CSXT Reply 39, May 30, 2017) and “[t]he community would be subjected to significantly longer delays in the event that CSXT were required to cut a train every time it was anticipated to occupy a crossing for more than 10 minutes.” (*Id.* at 39.) CSXT instead proposes that the Board modify VM 6 to “require CSXT to cut a train occupying a grade crossing whenever it appears that doing so would shorten the period of time that a crossing is occupied.” (*Id.*)

CSXT further states that its 40 mph operation speed representation is “unattainable.” (*Id.* at 37.) According to CSXT, “operational complexities (including unexpected changes of green signals to red) and speed limits for trains getting onto and off the line make it impossible for CSXT to achieve a 40 mph speed through the [Elsdon] Line.” (*Id.* at 41.) CSXT proposes no alternatives to this representation other than its continued commitment to promoting fluidity on the Elsdon Line. (*Id.*)

## DISCUSSION AND CONCLUSIONS

Although the Board remains concerned about the fluidity problems on the Elsdon Line, the impacts on the Chicago Communities, and the fact that CSXT has not been able to adhere to its own 40 mph representation and voluntary mitigation condition regarding the cutting of trains, the Board acknowledges that CSXT has made some operational improvements on the Elsdon Line. For example, CSXT has invested funds to reduce gate malfunctions, recently built the Hayford Junction Connection, which should reduce delays, and improved operating protocols. In addition, no replies to CSXT’s petition were filed, suggesting that CSXT’s efforts to better mitigate the operational impacts of the Elsdon Line, as well as its improved outreach to the Chicago Communities, are having a positive impact. The Board therefore accepts CSXT’s admissions and grants CSXT’s unopposed request to modify VM 6 to read as follows:

CSXT shall take appropriate actions to clear a public crossing or crossings blocked by a stopped train as quickly as possible, including by cutting the train where it appears that cutting the train would be the fastest way to clear the crossing and, if possible, rail cars, engines, and rail equipment may not stand closer than 200 feet from a highway/rail at-grade crossing when there is an adjacent track.

(CSXT Reply 40, May 30, 2017.)

The Board, however, will require CSXT to continue submitting monthly reports and making appropriate personnel available for monthly calls with Board staff for an additional six months covering data for the months of July through December 2017. The reports will continue to be due on the 15th of the following month. Although the Board is granting CSXT's request to modify VM 6 to eliminate the 10-minute threshold, the reports should continue to report, as before, on all blockages longer than 10 minutes, to permit the Board to continue to analyze data consistent with the first 12 reports. The reporting pertaining to cutting trains, however, will be modified to reflect elimination of the 10-minute threshold. Going forward, CSXT should report whether a train was cut (and if it was not, explain why not) only with respect to blockages of more than 60 minutes, as CSXT has provided evidence that 60 minutes is the typical period of time needed to cut and reassemble a train at a single crossing. (See CSXT Reply 39, May 30, 2017.) In addition, CSXT's reports should include a narrative generally addressing its implementation of the revised VM 6.

Additionally, the Board will permit CSXT to withdraw its representation concerning trains operating at 40 mph. This projection is apparently not feasible based on the Elsdon Line's congestion. The Board nonetheless encourages CSXT to move its trains quickly, yet safely, through the Chicago area.

It is ordered:

1. The application approval conditions are modified as discussed above.
2. CSXT will file monthly reports and make appropriate staff available to participate in monthly conference calls with Board staff as discussed above.
3. This decision is effective on its service date.

By the Board, Board Members Begeman, Elliott, and Miller.